

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TRUSTEES OF THE NATIONAL ELEVATOR	:	CIVIL ACTION
INDUSTRY PENSION, HEALTH BENEFIT,	:	
EDUCATIONAL, ELEVATOR INDUSTRY	:	
WORK PRESERVATION FUNDS, ELEVATOR	:	
CONSTRUCTORS ANNUITY AND 401(K)	:	
RETIREMENT PLAN,	:	
Plaintiffs,	:	
v.	:	
GATEWAY ELEVATOR INC. and	:	NO. 09-4206
FRED WUELLING, JR.,	:	
Defendants.	:	

ORDER

AND NOW, this 21st day of June, 2011, upon consideration The Boards of Trustees of the National Elevator Industry Pension, Health Benefit, Educational Elevator Industry Work Preservation, Elevator Constructors Annuity and 401(k) Retirement Plan Funds' (the "NEI Trust Funds") Motion for Summary Judgment (Doc. No. 17) and Supplemental Memorandum in Support of Plaintiffs' Motion for Summary Judgment (Doc. Nos. 21 and 22), and there being no opposition thereto by Defendants Gateway Elevator Inc. and Fred Wuelling, Jr., and for the reasons stated in the accompanying Memorandum, it is hereby ORDERED that the Motion (Doc. No. 9) is GRANTED in part as follows:

1. For Count I, the Motion is GRANTED as to the issue of the liability of Gateway Elevator Inc.
2. For Count II, the Motion is GRANTED, and accordingly, pursuant to 29 U.S.C. §1132(g)(2)(E), Gateway Elevator is hereby permanently enjoined from violating 29 U.S.C. § 1145 by failing to comply with the terms of the collective bargaining agreement and Declaration of Trust that require Gateway Elevator to timely

submit contributions to and file reports with the NEI Trust Funds.

3. For Count III, the Motion is GRANTED as to the issue of the liability of Fred Wuelling, Jr.

It is FURTHER ORDERED that by July 8, 2011 the NEI Trust Funds shall file and serve upon all Defendants a brief, with an accompanying proposed form of Judgment, that addresses by argument and/or an offer of proof the basis for and the calculation and amount of damages and other relief which the NEI Trust Funds assert are owed based upon the finding of liability for Counts I and III. Gateway Elevator and Mr. Wuelling shall have until July 25, 2011 to file and serve any objections to the NEI Trust Funds' request for and calculation of appropriate damages and other relief. If a defendant fails to file any objections by July 25, 2011, the Court shall consider the proposed form of Judgment and brief as unopposed by such defendant.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
United States District Judge